

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 17-0161V

Filed: October 10, 2017

UNPUBLISHED

LINDA RUSSELL,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);  
Ruling on Entitlement; Uncontested;  
Causation-In-Fact; Tetanus,  
Diphtheria, Acellular Pertussis (Tdap)  
Vaccine; Shoulder Injury Related to  
Vaccine Administration (SIRVA)

*Richard L. Hughes, Mogab & Hughes Attorneys, P.C., St. Louis, MO, for petitioner.*  
*Debra A. Begley, U.S. Department of Justice, Washington, DC, for respondent.*

### **RULING ON ENTITLEMENT**<sup>1</sup>

**Dorsey**, Chief Special Master:

On February 2, 2017, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that she suffered a shoulder injury related to vaccine administration (“SIRVA”) after receiving a tetanus, diphtheria, acellular pertussis (“Tdap”) vaccine on August 18, 2015. Petition at preamble. The case was assigned to the Special Processing Unit (“SPU”) of the Office of Special Masters.

On October 5, 2017, respondent filed his Rule 4(c) Report in which he states that he does not contest that petitioner is entitled to compensation in this case. Rule 4(c) Report at 1. Specifically, respondent stated that petitioner’s alleged injury is consistent with SIRVA caused-in-fact by the administration of the Tdap vaccine she received on

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<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

August 18, 2015. *Id.* at 4. Further, respondent did not identify any other causes for petitioner's SIRVA, and records show that petitioner suffered her condition for more than six months. *Id.* Therefore, based on the record as it now stands, petitioner has satisfied all legal prerequisites for compensation under the Vaccine Act. *Id.*

**In view of respondent's position and the evidence of record, the undersigned finds that petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**

Nora Beth Dorsey  
Chief Special Master